IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

THURSDAY, THE 8TH FEBRUARY 2007 / 19TH MAGHA 1928

WP(C).No. 2459 of 2007(P)

PETITIONER:

ABOOBACKER K.P., S/O.AYEMMED KUTTY,
KOLATAPOYIL HOUSE, VALIYAPRAMBU P.O.,
KODUVALLY, KOZHIKODE DISTRICT.

BY ADV. SRI.PAULY MATHEW MURICKEN
SRI.AMEER.K.M.

RESPONDENTS:

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1. KERALA PUBLIC SERVICE COMMISSION
REP. BY ITS SECRETARY, PATTOM,
THIRUVANANTHAPURAM.

2. DISTRICT OFFICER, KERALA PUBLIC
SERVICE COMMISSION, DISTRICT OFFICE,
KASARAGOD.

3. THE DEPUTY DIRECTOR OF EDUCATION,
KASARAGOD.

4. NOUSHAD .A, EDAPPATHITHARA,
VANDANAM P.O., ALAPPUZHA DISTRICT,
PIN-688 005.

R1 BY SHRI.P.C.SASIDHARAN, SC, PSC.
R2 TO 3 BY GOVT. PLEADER SHRI.BIJOY CHANDRAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J.

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WP(C).No.2459 OF 2007-P.

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Dated this the 8th day of February, 2007.

J U D G M E N T

The petitioner applied for appointment to the post of Last Grade Servant. He got selected and the P.S.C. assigned him appropriate rank in the select list. Another candidate, the 4th respondent, who got higher rank was advised for appointment on 13-9-2006. Subsequently he informed the Department and the Commission that he is not interested in the job and relinquished the same.

2. The list expired on 28-9-2006. It is contended that the Department which came to know that the 4th respondent was not interested in joining duty, ought to have informed the Commission about that fact promptly so that the NJD vacancy could have been utilised for advise of the next eligible candidate. But the intimation from the Department about such vacancy did not reach the Commission before 28-9-2006. The Commission, following the rules of procedure, did not advise any more candidates from the ranked list, which expired on 28-9-2006.

3. Counsel for the petitioner submits that since the 4th respondent intimated his disinclination to report for duty pursuant to the advise made by the Commission before

the date of expiry of the list, respondents 1 and 2 ought to have advised the petitioner who was the next person eligible for advise from that list.

4. Heard both sides. The rules say, particularly Rule 18 of the Kerala Public Service Commission Rules of Procedure, that relinquishment of a candidate eligible for appointment made after the advise will not be treated as a vacancy against which the next candidate can be advised for appointment. If only the relinquishment is made by that candidate before he is advised by the Commission, it will be treated as a vacancy reported in the first instance. In cases where relinquishment is made after advice, the Department concerned will have to inform the non joining duty of the advised candidate and that will be treated as NJD vacancy. Unless the NJD vacancy is reported to the Commission before the validity of the list expires, no more candidates will be advised.

5. In this case the NJD vacancy was not reported to the Commission before the expiry of the list. For the above reasons no relief can be granted to the petitioner.

The writ petition is accordingly dismissed.

K.K.DENESAN, JUDGE.

kvs/-